

COASTAL CONSERVANCY

Staff Recommendation

May 18, 2005

PIEDRAS BLANCAS ACCESS ACQUISITION

File No. 04-077

Project Managers: Janet Diehl/Steve Horn

RECOMMENDED ACTIONS: (1) Authorization to disburse up to \$100,000 to the Trust for Public Land for the management of public access to two sandy beaches and associated trails and parking area; and (2) authorization to enter into an option agreement with the Trust for Public Land, including disbursement of \$90,000 as an option payment, for possible public acquisition of a parcel of approximately 20 acres located west of Highway 1 at Piedras Blancas, San Luis Obispo County.

LOCATION: Between State Highway 1 and the ocean shoreline, approximately 6 miles north of W.R. Hearst State Beach (Exhibit 1)

PROGRAM CATEGORY: Public Access

EXHIBITS

Exhibit 1: Area Map

Exhibit 2: Aerial photograph depicting property lines

Exhibit 3: Map showing Hearst Ranch transaction context

Exhibit 4: Photographs of Site

Exhibit 5: Letters of Support from December 2004 hearing

Exhibit 6: Newspaper Articles concerning the project

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31400 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy hereby: (1) authorizes the disbursement of an amount not to exceed one hundred thousand dollars (\$100,000) to the Trust for Public Land (“TPL”) for management and operation of public access to and along the ocean shoreline, on a property of 20-plus acres (San Luis Obispo County Assessor’s Parcel Number 011-231-012) that is currently improved with a motel, parking areas and associated structures

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and is more particularly described in Exhibits 1 and 2 attached to the accompanying staff recommendation (the “Piedras Blancas property”); and (2) authorizes the Executive Officer of the Conservancy (the “Executive Officer”) to enter into a purchase option agreement with TPL to secure the right of public purchase of the Piedras Blancas property, subject to the terms generally described in the accompanying staff recommendation, and further authorizes the disbursement of an option payment in an amount not to exceed ninety thousand dollars (\$90,000) to TPL pursuant to those terms.”

Disbursement of these Conservancy funds is subject to the following conditions:

1. Prior to the disbursement of any funds for the operation and management of public access, TPL shall:
 - a. Enter into an agreement with the Conservancy, pursuant to Public Resources Code Section 831.5, to provide nondiscriminatory public access on the property;
 - b. Submit a work program, budget and schedule for the management and operation of the public access, for the approval of the Executive Officer; and
 - c. Agree to acknowledge the Conservancy funding by erecting and maintaining signs on the property, the design and location of which has been reviewed and approved by the Executive Officer.
2. The option to purchase the Piedras Blancas property shall provide that during the term of the option TPL will remove specified structures from the property to the satisfaction of the Executive Officer, using the funds provided by the option payment in order to accomplish such removal.
3. The option shall provide that TPL will provide from private or public sources the funding needed to support public acquisition of the Piedras Blancas property, without recourse to the Conservancy for funding beyond that authorized by the Conservancy at its December 2004 meeting.
4. The option shall provide that the public purchase price will not exceed by more than five percent (5%) the sum of the price paid for the property by TPL and the actual transaction and holding costs expended by TPL as a result of the purchase.
5. The option shall provide that the Executive Officer shall approve all relevant acquisition documents, including the appraisal, agreements of purchase and sale, escrow instructions and documents of title necessary to the acquisition.
6. The option shall provide that purchase by the Conservancy or the California Department of Parks and Recreation will be subject to the approval of the State Public Works Board.

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

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1. The proposed project is consistent with the purposes and criteria set forth in Chapter 9 of Division 21 of the Public Resources Code (Sections 31400 to 31409) regarding coastal access.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The proposed project will serve greater-than-local needs.
4. The Trust for Public Land is a nonprofit organization existing under Section 501(c)(3) of the United States Internal Revenue Code, with purposes consistent with Division 21 of the Public Resources Code. ”

PROJECT SUMMARY:

The Piedras Blancas site includes one-half mile of privately-owned oceanfront property located in the middle of the 13 linear miles of new State Park land that has been acquired from the Hearst Ranch in San Luis Obispo County. If the site is not acquired for public purposes, the 20 acres above the coastal bluffs will have a very high likelihood of being redeveloped privately as a destination resort taking advantage of the surrounding protected public land (Exhibits 1-4). The site has an existing motel structure and associated retail services, and it is designated in the certified San Luis Obispo Local Coastal Program for visitor commercial use. The two sandy beaches on the property are currently available for use only to patrons of the commercial facilities, as there is no convenient means for the public to access these beaches directly from Highway 1.

A conservation purchase of this site would avoid the impacts of private development, and would have great potential for public access and recreational uses. With its existing parking lot and safe entry road from Highway 1, the site could provide immediate public access to the new State Park that will stretch for many miles on either side of it. Public acquisition could enable the completion of the California Coastal Trail (avoiding what would otherwise be a half-mile gap), and the public could gain permanent access to two substantial sandy beaches. Because the site is relatively level and is currently developed, it may be a more feasible location for any support facilities needed for DPR management of the Hearst Ranch acquisitions than would be other State Parks ownership that is both currently undeveloped and subject to conservation easement.

To avert the immediate threat of private redevelopment and thus preserve the opportunity for getting this property into public ownership, the Trust for Public Land (TPL) has agreed to purchase the property for \$4,500,000 using a short-term loan provided by The Packard Foundation. TPL has also committed to raising all of the funds needed to support a future public purchase, building on the \$2,000,000 approved by the Coastal Conservancy in December 2004. In anticipation that the Piedras Blancas property would be incorporated into and managed together with the area acquired from the Hearst Ranch, State Parks staff has indicated a willingness to recommend a DPR contribution of \$500,000 toward the purchase. TPL would seek private contributions and commitments from federal agencies to provide the rest of the purchase price.

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The Conservancy would support this effort in two ways: (1) by agreement with TPL on the structure of a future public purchase, to secure this opportunity and define the basic terms necessary prior to bringing it to the Public Works Board; and (2) with financial assistance to TPL to provide the services needed to manage public access to these beaches while the site is still in private ownership. Through an option agreement with TPL the Conservancy would assure that the public will have the right to buy the property, at a price that will not exceed Fair Market Value, once the precursor conditions are met. Through a grant agreement with TPL, the Conservancy would authorize funding from the Coastal Access Account to provide for immediate public recreational use of the shoreline while the public purchase is being developed.

Committing its own financial and staff resources to the Piedras Blancas project represents a significant risk for the Trust for Public Land. Direct costs, including interest on the Packard Foundation loan, property taxes, liability insurance, etc., will be substantial, as will the commitment of TPL staff time that will be necessary in order to create the total funding package. In all, these TPL holding costs are likely to require a minimum out-of-pocket investment of \$200,000-\$300,000 prior to the time that any transfer to the public could be considered, with no certainty that these costs could be recovered.

In addition to the holding costs, other investments will also be necessary in order to prepare the property for possible transfer to a public agency. Two potential physical risk factors exist on the property: a structure that is near the bluff edge and may be threatened by on-going processes of erosion; and a gasoline service facility that includes underground storage tanks. While neither of these existing structures is believed to represent a major environmental hazard, it would be desirable to remediate each of them prior to the transfer of title to the public. The cost of contractor services for remediation of the two sites is estimated to be a total of \$60,000-\$80,000, not including staff costs to TPL for organizing and managing this clean-up.

Through the proposed option agreement, TPL and the Conservancy would establish terms of a purchase transaction that would facilitate the necessary site clean-up as well as enable TPL to recoup its out-of-pocket costs in a future sale to the public. By so doing, both TPL and the State would obtain a greater certainty of a successful future project, reducing the risk to each. The State would obtain the certainty that it could purchase the property within a known price range, even if that price is below the fair market value as established by an updated appraisal. The State will also be able to direct the use of its option payment, ensuring that TPL will invest these funds in the needed site clean-up. The purchase price would also include a 5% cap on the transactional return to TPL, which value must be supported by an acceptable appraisal. The option agreement would also provide for a return of the State's option payment in the event that a future sale back into the private market (if the public sale is not completed) exceeds the amount of the negotiated sale price under the option agreement.

During the period that TPL owns the property, the public will be permitted to access the shoreline under the same conditions that currently govern the private commercial access. Minimal improvements would be required - - limited to directional signing and fencing to channel vehicles and foot traffic away from sensitive areas - - because the existing parking area and existing dirt trails would continue to be used.

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Site Description:

The Piedras Blancas property lies almost exactly in the middle of the 13 miles of scenic coastline recently acquired by the State from the Hearst Ranch. On the “Conservation Transaction Overview Map” (Exhibit 3), it is the sole white space along the coast north of the Piedras Blancas Lighthouse and south of Point Sierra Nevada. The entrance to Hearst Castle State Historic Monument, which attracts about a million visitors per year, is approximately seven miles south.

Two sandy beaches form the northern and southern ends of the site. Between the beaches, a steep, low bluff fronts a generally rocky shoreline, with a relatively flat terrace above that extends east to State Highway 1. The open character affords views of Big Sur to the north, Piedras Blancas Lighthouse to the south and the rolling hills of the Hearst Ranch across the highway.

Improvements to the property include a 14-unit motel and attached coffee shop built during the 1950s, a recently-upgraded self-serve gas station, and a caretaker’s home with a garage and storage building. Introduced landscaping includes extensive iceplant along the bluff edge, non-native grasses and a few trees, although a substantial area is dirt and gravel used as a parking lot for motel patrons and recreational vehicles. There are three water wells on the property and two water storage tanks that supply service to the site.

The property is entirely within the coastal zone and is zoned for visitor recreation in the certified San Luis Obispo County Local Coastal Program. This designation permits the existing commercial uses, with the potential to expand development coverage up to 40% of the total area of the site.

A Phase I Environmental Assessment obtained by the American Land Conservancy in September 2004 indicates that a previous set of underground gasoline storage tanks were removed from the property in 1999 and apparently had not leaked; these were replaced at that time with more modern storage tanks. The Trust for Public Land has conducted additional environmental assessment of the site during the past two months, and those studies will continue. None of the reports to date have concluded that there are any substantial hazardous environmental conditions known to exist on the property, although testing within the structures has not been completed.

Erosion is an issue here. A geotechnical report commissioned in 2001 concluded that a coastal bluff retreat rate of approximately 2.8 to 4.3 feet per year is occurring at the northern end of the site, and the bluff edge is now within ten feet of one of the motel structures. Given these retreat rates, the 2001 report considered portions of the present motel structure threatened and recommended rock revetment or other protective measures. Pursuant to Public Resources Code Section 30235, a private landowner would be likely to obtain permission under the Coastal Act for a program of shoreline armoring to protect the part of the motel that is threatened by erosion. Immediately north of the Piedras Blancas property, on land previously part of the Hearst Ranch and now owned by State Parks, Caltrans has already installed rip-rap armoring to avoid erosion that might undermine State Highway 1. Erosion also threatens the dirt path leading to the northern sandy beach area, and safety considerations may make it necessary to limit public use of this pathway while a long-term, safe alternative is designed.

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Project History:

The American Land Conservancy (“ALC”) initiated negotiations for the purchase of the Piedras Blancas property as an adjunct to its efforts to secure permanent protection for the Hearst Ranch, because of the strategic location of the subject site and the potential for private redevelopment contrary to the purposes of the Hearst Ranch Conservation Transaction. However, ALC was not able to complete the purchase even after the Conservancy (in December 2004) had authorized a grant for a portion of the purchase cost, in substantial part because of the financial risk factors discussed above.

In early 2005 Conservancy staff requested assistance from the Trust for Public Land to try to craft a feasible conservation transaction for this property, and TPL was successful in reaching agreement with the landowner. In an ironic twist, the public attention generated by the Conservancy grant approval attracted private developer interest in purchasing the property and made the task more difficult for TPL.

TPL staff has been working hard to secure this property, and has obtained the approval of the Packard Foundation for a three-year loan at a low interest rate. On April 21, the transaction was authorized by the TPL Board in the expectation that the Conservancy would also authorize State assistance as currently recommended. Because of the competition from private purchase offers, there is only a narrow “window” for a conservation transaction, and TPL may be required to close escrow on the purchase prior to the Conservancy Board meeting. The TPL transaction would rely on the prior grant of funds that was approved by the Conservancy in December 2004 as a portion of the future purchase price for a public acquisition; that authorization included the requirement that the nonprofit purchase take place by June 30, 2005, and TPL intends to comply with that requirement.

PROJECT FINANCING:

1) State Purchase Option Payment	\$ 90,000
2) Grant for Immediate Public Access	<u>100,000</u>
Total:	\$190,000

Prior Authorization (December 2004): \$2,000,000 as a grant to the American Land Conservancy for land acquisition. It is anticipated that TPL will be substituted as the grantee for these funds in accordance with the SCC authorization.

The anticipated sources of Conservancy funds for the current recommendation are:

- \$100,000 from the “Coastal Access Account” to provide for the public access operations and management services. Pursuant to Public Resources Code Section 30620(c)(2), the Coastal Access Account may be used for grants to nonprofit organizations for the development, maintenance and operation of new or existing facilities that provide public access to the shoreline.

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- \$90,000 from the “California Safe Neighborhood Parks, Clean Water, Air and Coastal Protection Bond Act of 2000” (Proposition 12) for the purchase option payment, from funds appropriated for completion of the California Coastal Trail. Under Proposition 12, these funds may be used for the acquisition and protection of land and water resources.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The Conservancy's contribution would be provided under Chapter 9 of the Conservancy's enabling legislation, Sections 31400 through 31409 of Division 21 of the Public Resources Code, regarding public access to the shoreline. Public Resources Code Section 31400 states the Legislature's intent that the Conservancy take the principal role in the implementation of a system of public accessways to and along the state's coastline. Consistent with this section, the Conservancy will seek to facilitate the acquisition of an important bluff-top property that would provide the public with access to two beaches currently in private ownership, and the Conservancy will provide funds to enable the public to use this site immediately.

The Conservancy is authorized by Public Resources Code (“PRC”) Section 31402 to acquire fee title to property in order to assure that an adequate system of public accessways is provided, and PRC Section 31406 authorizes the Conservancy to enter into an option agreement for the purchase of land for access purposes.

PRC Section 31400.1 authorizes the Conservancy to award grants to nonprofit organizations to develop, operate and manage lands for public access purposes, where the accessway would serve greater-than-local public needs.

Consistent with PRC Section 31400.2, the amount of funding proposed has been reviewed by Conservancy staff in light of the total amount of funding available for coastal public accessway projects, the fiscal resources of the applicant, and the relative urgency of the project.

CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 1, Objective D**, the proposed acquisition would secure approximately one-half mile of new Coastal Trail right-of-way.

Consistent with **Goal 2, Objective B**, the proposed acquisition would provide permanent public access to an area that is currently available only for private commercial use.

Consistent with **Goal 4, Objective A**, 20 acres of scenic coastal bluff lands would be acquired.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** As indicated at the December 2004 Conservancy hearing regarding the grant to ALC, purchase of this property for public recreation had widespread support, including that of then-State Senator (now State Controller) Bruce McPherson, then-Assemblyman (now Senator) Abel Maldonado, current San Luis Obispo County Supervisor Shirley Bianchi, and several local environmental and recreation organizations. Letters of support associated with the December 2004 action are attached as Exhibit 5.
4. **Location:** The proposed project is entirely within the Coastal Zone.
5. **Need:** The Trust for Public Land will solicit all of the funding needed to enable a public acquisition of the property, relying on the Conservancy for the funding previously authorized. The public acquisition will not happen without this collaborative effort by the Conservancy and TPL.
6. **Greater-than-local interest:** Approximately four million travelers annually pass through this segment of Highway 1, which has been designated as a State Scenic Highway and a federal All-American Road. With its easy access from Highway 1, this property would make an ideal beach stop for those millions of travelers. Nearby Hearst Castle is one of the most heavily visited California state parks.

Additional Criteria

7. **Urgency:** The property is being actively marketed for private sale, and has been under a private purchase option as recently as two months ago. Unless the Trust for Public Land is able to intervene and secure the property, it will certainly be sold for private commercial and/or residential development and the opportunity for public recreation will be lost. The recommended Conservancy action would ensure that the public will have a feasible opportunity to acquire the property as a logical addition to the Hearst Ranch Conservation Transaction.
9. **Leverage:** See the "Project Financing" section above.
12. **Readiness:** The proposed acquisition must be completed immediately by TPL to avert the threat of sale to a private developer. The proposed option agreement will provide a framework for a step-by-step readying of the property for consideration by the Public Works Board. The recommended Conservancy support would enable the beach areas to be open to the public this summer.

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15. **Cooperation:** This transaction would be an example of cooperation among a private nonprofit organization, private contributors and the State and federal governments.

CONSISTENCY WITH THE LOCAL COASTAL PLAN:

The proposed acquisition for public access purposes is consistent with the San Luis Obispo County Local Coastal Plan, certified by the California Coastal Commission February 25, 1988. The LCP designates this property for Visitor-Serving Recreation. Permitted uses under Recreation Standard 25 of the LCP include coastal accessways.

COMPLIANCE WITH CEQA:

The recommended action has two components, each of which is exempt from further review under the California Environmental Quality Act (“CEQA”). The purchase option agreement creates no legal requirement for any further action by the Conservancy and consequently could not result in any impact on the environment, however, it may lead to the public acquisition of the Piedras Blancas property; such acquisition, if it occurred, would be categorically exempt under CEQA pursuant to 14 Cal. Code of Regulations Section 15325, as a transfer of ownership of land for park and open space purposes. The grant of funds for operation of a public access facility would be categorically exempt under CEQA pursuant to 14 Cal. Code of Regulations Section 15323 as the continued operation of an existing facility for public gatherings. The commercial beach access has been in operation for at least twenty years and the existing parking areas and pathways have been designed to support this use; the public access operation by TPL will require minimal changes in the operation of the facility and would produce negligible change in current environmental conditions. Although the project site is located in a sensitive area, there is no reasonable possibility that either of these activities will produce a significant effect on the environment.

Upon approval, staff will file a Notice of Exemption for the proposed project.